



FILED
7-05-16
04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

O1 Communications, Inc. (U-6065-C),
Complainant
vs.

C.15-12-020

New Cingular Wireless Pcs, LLC (U-3060-C) and
AT&T Mobility Wireless Operations Holdings, Inc.
(U-3021-C)
Defendants

**DECLARATION OF ANITA TAFF-RICE IN SUPPORT OF
O1 COMMUNICATIONS, INC. (U-6065-C) EXPEDITED MOTION
TO COMPEL PRODUCTION OF DOCUMENTS
WITHHELD BY NEW CINGULAR WIRELESS PCS, LLC (U-3060-C)
AND AT&T MOBILITY WIRELESS OPERATIONS HOLDINGS, INC. (U-3021-C)**

iCommLaw
Anita Taff-Rice
Inna Vinogradov
1547 Palos Verdes, #298
Walnut Creek, CA 94597
Phone: (415) 699-7885
Fax: (925) 274-0988
Email: anita@icommlaw.com
Counsel for O1 Communications, Inc.

July 5, 2016

I, Anita Taff-Rice, declare as follows:

1. I am outside counsel and lead litigation counsel for Plaintiff O1 Communications, Inc. in the above captioned proceeding.
2. I have personal knowledge of the facts set forth in this Declaration, and could and would competently testify to these facts if required to do so.
3. On February 22, 2016, O1 issued its First Set of Data Requests to AT&T Mobility. The Data Requests included three questions seeking information about direct connection agreements AT&T Mobility has with other providers.
4. AT&T Mobility objected to Data Request 1-3, stating that it has as many as 1,000 traffic exchange agreements (“TEAs”) in place throughout the country, and declined to produce any agreements until O1 narrowed the scope of its request.
5. O1 requested a meet and confer with AT&T Mobility to discuss these deficiencies, and on April 12, 2016, the parties held a telephonic meet and confer. In addition, on April 12, 2016, the parties executed an NDA.
6. On April 13, 2016, AT&T Mobility responded to Data Request 1-1 and 1-2 by providing a list of 21 entities. See Bates ATTMOBILITY-000597 attached as Confidential Exhibit 1 to this motion. AT&T Mobility did not respond to Data Request 1-3.
7. On April 29, 2016, AT&T Mobility provided a narrative response to Data Request 1-3. In that response, AT&T Mobility’s counsel stated, in part, that AT&T Mobility has agreements with 12 providers that allow direct connection only in California, and that AT&T would request consent from the signatories to produce

the agreements subject to a non-disclosure agreement (“NDA”) the parties had executed.

8. AT&T Mobility subsequently stated that it has agreements with 31 other providers that allow for direct connections in California and other states and declined to produce those agreements. *See* Email from Margaret Thomson dated April 29, 2016 attached to O1’s Motion to Compel as Exhibit 2.
9. On May 17, 2016, O1 issued a Second Set of Data Requests to AT&T Mobility. Data Request 2-1 sought copies of the direct connection agreements for each of the providers identified in response to Data Requests 1-1 and 1-2.
10. On June 7, 2016, AT&T Mobility provided a narrative response stating that it would provide copies of agreements with other providers for direct connection facilities only in California and would not produce agreements that include California in addition to other states, and that in addition it would seek consent from signatories to produce a category of agreements AT&T Mobility referred to as “Traffic Exchange Agreements”. A copy of AT&T Mobility’s response to Data Request 2-1 is attached to O1’s Motion to Compel as Exhibit 3.
11. AT&T Mobility provided further responses to Data Request 2-1 by producing five direct connect agreements on June 13, 2016 and two on June 14, 2016.
12. On June 16, 2016, at the request of O1, the parties held a meet and confer to discuss, among other things, why AT&T had produced only seven direct connect agreement even though AT&T Mobility identified 21 providers with which it has direct connection agreements in response to Data Request 2-1 (Bates ATTMOBILITY-000597).

13. AT&T Mobility indicated that it was applying its own criteria to decide whether to produce agreements, including whether it deemed the provider to be similar to O1 and/or whether the agreement included terms and rates for direct connections in other states in addition to California.
14. O1 objected to AT&T's assertion that it could pick and choose from among relevant, responsive documents to produce and reiterated its request for AT&T Mobility, at a minimum, to produce the direct connection agreements with all 21 providers listed on Bates ATTMOBILITY-000597.
15. On June 22, 2016, AT&T Mobility produced one additional direct connection agreement, on additional agreement on June 23, 2016 and one additional agreement on June 28, 2016, for a total of 11 direct connection agreements. All 11 of the direct connection agreements were produced in electronic form.
16. On June 27, 2016, O1 and AT&T Mobility had a meet and confer regarding the lack of complete production of direct connect agreements. During the meet and confer, AT&T Mobility indicated that it intended to revise and reduce the list of providers with whom it has direct connect agreements.
17. On June 28, 2016, AT&T Mobility produced a revised list of providers with whom it has direct connect agreements. See Bates ATTMOBILITY-000987 attached to O1's Motion to Compel as Confidential Exhibit 4. The new list removed six providers, renamed one provider and added one new provider. See comparison of the two lists attached to this Motion as Confidential Exhibit 5.
18. On June 28, 2016, counsel for O1 corresponded with AT&T Mobility's counsel reiterating concerns with AT&T Mobility's decision to withhold relevant,

responsive documents. O1's counsel repeated in writing the request for production of all agreements that allow for direct connection in California regardless of whether the signatory is deemed "similar" to O1 by AT&T Mobility and whether the agreement allows for direct connection in other states in addition to California.¹ Regarding the multi-state agreements, O1's counsel reiterated that it was acceptable for AT&T Mobility to redact the rates, terms and conditions for direct connection outside of California, as AT&T Mobility had already done for the provider agreement produced as Bates ATTMOBILITY-000950 to 970.²

19. On June 30, 2016 at 3:20 p.m., the day before opening testimony was due, AT&T Mobility informed O1 that it was refusing to produce any additional direct connect agreements.³ AT&T Mobility asserts that it is too burdensome to produce all of the direct connection agreements it has that cover California, or even to produce all of the direct connection agreements for providers identified on the shrinking list of providers that AT&T Mobility self-identified as having direct connection agreements in California produced as Bates ATTMOBILITY-000597 or ATTMOBILITY-000987.

20. O1 agreed to limit its request only to direct connect agreements that related to California, either exclusively, or multi-state agreements that include the ability to directly connect in California.

[signature block on next page]

¹ A copy of the correspondence from O1's counsel is attached to O1's Motion to Compel as Exhibit 6.

² A copy of the agreement from which terms related to other states were redacted is attached to O1's Motion to Compel as Confidential Exhibit 7.

³ A copy of the correspondence from AT&T Mobility refusing to produce any additional direct connect agreements is attached to O1's Motion to Compel as Exhibit 8.

I declare under penalty of perjury of the laws of the State of California that the statements in this Declaration are true and correct to the best of my knowledge and belief.

Dated and signed this 5th day of 2016, at Walnut Creek, CA.

/s/Anita Taff-Rice